



WEB COPY



Civil Miscellaneous Appeal No.1420 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1420 of 2024

Vanathi
W/o.Selvam

... Appellant

Vs.

1.Subramani
S/o.Munusami

2.The Divisional Manager,
New India Assurance Co. Ltd.,
No.179, 3rd Floor,
Jawaharlal Nehru Street,
Pondicherry.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.09.2022 made in M.C.O.P.No.97 of 2022 on the file of Subordinate Judge, Additional Motor Accident Claims Tribunal, Puducherry.

For Appellant : Mr.T.Ananthasekar

For Respondents : Ms.Aswathy Suresh [R2]

JUDGMENT



Civil Miscellaneous Appeal No.1420 of 2024

WEB COPY

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Subordinate Judge, Additional Motor Accident Claims Tribunal, Puducherry, has filed this appeal against the award passed in M.C.O.P.No.97 of 2022, dated 07.09.2022.

2. The case of the claimant is that on 09.03.2021, when she was walking on the left hand side corner of the road at Vinayagar Koil Street, the first respondent reversed his tractor without any indication and as a result, it dashed on the claimant and the claimant sustained comminuted fracture right clavicle and comminuted fracture left sacrum. The Medical Board assessed the disability at 34%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.4,94,271/- under various heads as



follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Medical expenses	2,22,271/-
2.	Partial permanent disability	1,70,000/-
3.	Pain and suffering	1,00,000/-
4.	Damage to clothes	2,000/-
	Total	4,94,271/-

The above compensation was directed to be paid with interest at 7.5% p.a.

4. The claimant, not being satisfied with the compensation awarded by the Tribunal, has approached this Court seeking for enhancement of compensation.

5. Heard Mr.T.Ananthasekar, learned counsel for appellant/claimant and Ms.Aswathy Suresh, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.



WEB COPY

8. The accident had taken place in the year 2021. The Tribunal has fixed only Rs.5,000/- per percentage while calculating the compensation under the head 'disability'. This is on the lower side. Considering the judgment of the Division Bench of this Court in C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others], this Court is inclined to fix a sum of Rs.7,000/- per percentage of disability. Thus, the compensation under the head 'disability' works out to Rs.2,38,000/- [7000 * 34].

9. The claimant had underwent treatment as an inpatient for nearly seven days. The Tribunal has not granted any compensation under the heads 'transportation', 'attender charges' and 'extra nourishment'. Hence, a sum of Rs.7,500/-, Rs.7,000/- and Rs.10,000/- is awarded under these heads respectively.

10. The Tribunal has not awarded any amount towards loss of income. The case of the claimant is that the claimant was an agriculturist and she was out of action for a long time due to the injuries sustained by her. Considering the facts and circumstances of the case and the nature of



injuries sustained by the claimant, this Court is inclined to fix a sum of Rs.45,000/- [15000 *3] under the head 'loss of income'.

11. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.

12. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Medical expenses	2,22,271/-	2,22,271/-
2.	Partial permanent disability	1,70,000/-	2,38,000/-
3.	Pain and suffering	1,00,000/-	1,00,000/-
4.	Damage to clothes	2,000/-	2,000/-
5.	Loss of income	-	45,000/-
6.	Extra nourishment	-	10,000/-
7.	Transportation	-	7,500/-
8.	Attender charges	-	7,000/-
	Total	4,94,271/-	6,31,771/-

13. The compensation awarded by the Tribunal at Rs.4,94,271/- is enhanced to Rs.6,31,771/-. The second respondent insurance company is



Civil Miscellaneous Appeal No.1420 of 2024

directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,37,500/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 328 days as was ordered by this Court in C.M.P.No.26006 of 2023 in C.M.A.Sr.No.144412 of 2023 dated 04.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

25.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

gm

To

The Subordinate Judge,
Additional Motor Accident Claims Tribunal,



WEB COPY



Civil Miscellaneous Appeal No.1420 of 2024

N.ANAND VENKATESH, J.

gm



WEB COPY



Civil Miscellaneous Appeal No.1420 of 2024

Civil Miscellaneous Appeal No.1420 of 2024

25.06.2024